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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,967	03/23/2004	Mao-I Wu	24061.112 (TSMC2003-0571)	2328
43717 7590 12/23/2009 HAYNES AND BOONE, LLP IP Section 2323 Victory Avenue Suite 700 Dallas, TX 75219				
EXAMINER				
OSMAN, RAMY M				
ART UNIT		PAPER NUMBER		
2457				
MAIL DATE		DELIVERY MODE		
12/23/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/806,967

Applicant(s)

WU ET AL.

Examiner

RAMY M. OSMAN

Art Unit

2457

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 November 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 2-5,7-12,14-17,19 and 20.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Ramy M Osman/
Primary Examiner, Art Unit 2457

Continuation of 11, does NOT place the application in condition for allowance because: Applicants arguments filed 11/19/2009 have been fully considered but are not persuasive.

1. The 101 rejections are withdrawn in view of amendment dated 11/19/09.

2. Applicant argues that the Final rejection dated 8/20/09 is premature.

In reply, firstly claim 16 was amended and was thus rejected under 101. Claims 14-15 were amended to depend upon the amended claim 16 and thus they were rejected based upon the rejection of amended claim 16. Furthermore, the 101 rejection is withdrawn which makes this moot. Secondly, regarding the 112^{2nd} paragraph rejection, the Office Action dated 1/14/09 stated that "Claims rejected..." which means that all claims were rejected, with only claim 1 being mentioned as a representative example. Thirdly, the rationale of some finally rejected claims on 8/20/09 were slightly reworded to provide additional explanation which compliments the previous rejection of 1/14/09. The final rejection is thus proper and is maintained.

3. Applicants argues that there is no valid reason to modify Myers in view of Hericourt.

In reply, on page 14 of remarks Applicant attempts to use Examiners statement in Office Action dated 8/20/09 as support for the contention that Hericourt cannot be used to modify Myers. The quote from the Office Action is a general statement. The Examiner is not concerned whether Myers provides caching in general. The Examiner is only concerned that Myers does not provide proxy caching. Which indeed is the case. Myers fails to teach proxy caching which is then remedied by the teachings of Hericourt. In the middle of page 14 of remarks Applicant states that "it must first be established that Myers fails to provide for caching data..." and that there is no evidence to support points "(1)" and "(2)". Applicant is incorrect. The claims make no requirement that either of these points must be established, therefore the reason to modify is quite open ended. The claims do not state that the network does not support multiple layers of caching. The claims do not even make mention of caching and thus do not put any restriction on how caching cannot be used to read on the claims. Furthermore, there are plenty of examples of current and old well-known networks having multiple layers of caching (at different points throughout a network).

Applicants claim language is broad since there is no limiting language in regards to caching.

4. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).